

MONTANA DEPARTMENT OF JUSTICE

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*Attorney for Defendants*

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION

MAKUEEYAPEE D. WHITFORD,

Plaintiff,

v.

BRIAN GOOTKIN and JIM  
SALMONSEN,

Defendants.

CV 22-70-H-SEH

AFFIDAVIT OF TERRIE STEFALO

STATE OF MONTANA )

) ss

COUNTY OF \_\_\_\_\_ )

I, Terrie Stefalo, first being duly sworn, aver the following:

1. I am a citizen of the United States, over 18 years of age, competent to testify, and have personal knowledge of the following facts. I am not a party to this lawsuit.

2. I am employed by the Montana Department of Corrections as the Religious Activities Coordinator at Montana State Prison ("MSP"). I have held this position since October of 2012.

3. I supervise MSP staff who work at the Religious Activities Center on the MSP campus. I also solicit and work with volunteers from the public who want to provide religious services and activities to MSP inmates.

4. One of my job duties is to facilitate Native American religious programming at MSP.

5. Exhibit A, filed herewith, is a true and correct copy of a document which sets forth the procedure for carrying out the sweat ceremony, the pipe ceremony, the drum group, and other Native American religious exercises.

6. Exhibit A also sets forth eligibility for participation in the ceremonies, the selection of the pipe carrier, the selection of the sweat

lodge setup crew, operation of the sweat ceremony and pipe ceremony, and drum group practice.

7. Out-of-cell religious activities are not provided in the locked housing units, including the Secure Assessment Unit (“SAU”).<sup>1</sup>

8. The SAU is intended to be temporary housing designed to allow inmates the opportunity to improve their behavior so that they can transition to regular high security housing (high security side general population; herein, “high-side gen. pop.”).

9. Out-of-cell religious activities are available to inmates in high-side gen. pop. as well as inmates in the low security side general population (“low-side gen. pop.”). High-side gen. pop. inmates and low-side gen. pop. inmates do not attend the same activities.

10. Two sweat ceremonies are held every Saturday at the RAC, weather, security, and other legitimate penological concerns permitting.<sup>2</sup> One week, there is a sweat ceremony for low side units A and B, and a sweat ceremony for high side unit (“HSU”) 1; the next week, there is a sweat ceremony for low side units C and D, and a sweat ceremony for HSU 2; then units A and B and HSU 1 again, and so on.

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<sup>1</sup> Exh. A, p. 2.

<sup>2</sup> Exh. A, p. 7.

11. Inmates set up the sweat lodge prior to each ceremony.<sup>3</sup>

12. The sweat lodge setup crew consists of four inmates, plus two alternates.<sup>4</sup> Inmates apply for selection to the setup crew.<sup>5</sup> RAC staff, including myself, select the setup crew from among the applicants.<sup>6</sup> An inmate must have gone six months without accruing a disciplinary violation to be eligible for selection to the setup crew.<sup>7</sup> This is the “six months’ clear conduct requirement.”

13. Sweat lodge setup is an out-of-cell activity; inmates housed in locked housing (such as the SAU) are not eligible to participate.<sup>8</sup> The sweat lodge ceremony itself does not require six months’ clear conduct to attend.

14. Two inmates per side are elected by the respective Native American congregation to carry the sacred pipe.<sup>9</sup> There is one pipe carrier for low-side units A and B; one for low-side units C and D; one for HSU 1, and one for HSU 2. The pipe carriers are responsible for

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<sup>3</sup> Exh. A, p. 3, ¶ 1.

<sup>4</sup> Exh. A, p. 3, ¶ 2.

<sup>5</sup> Exh. A, p. 3, ¶ 2.

<sup>6</sup> See Exh. A, p. 3, ¶ 2.

<sup>7</sup> Exh. A, p. 3, ¶ 2.

<sup>8</sup> See Exh. A, p. 2.

<sup>9</sup> Exh. A, p. 4, ¶ 6.a.

mixing the tobacco, bearberries, and red willow for smoking from the sacred pipe.<sup>10</sup>

15. The pipe ceremonies take place in conjunction with the sweat lodge ceremonies;<sup>11</sup> there are also pipe ceremonies separate from the sweat ceremonies. The pipe ceremonies are out-of-cell activities which take place at the RAC; inmates housed in locked housing (such as the SAU) are not eligible to participate.<sup>12</sup> The pipe ceremonies do not require six months' clear conduct to attend.

16. MSP is a smoke-free environment, and as such, tobacco is not allowed inside the facility except for at the RAC during pipe ceremonies.<sup>13</sup>

17. There is a drum group which provides drumming for the sweat ceremonies.<sup>14</sup> Any inmate at a sweat ceremony may join the drum group;<sup>15</sup> drumming at a sweat ceremony does not require six months' clear conduct.

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<sup>10</sup> Exh. A, p. 4, ¶ 6.c.

<sup>11</sup> Exh. A, p. 5, ¶ 6.l.

<sup>12</sup> See Exh. A, p. 2.

<sup>13</sup> Exh. A, p. 5, ¶ 6.h.

<sup>14</sup> Exh. A, p. 5, ¶ 7.a.

<sup>15</sup> Exh. A, p. 5, ¶ 7.b.



18. The drum group practices before playing at the sweat ceremonies. Participation in drum group practice requires six months' clear conduct.<sup>16</sup>

19. Drum group practice is an out-of-cell activity; inmates housed in locked housing (such as the SAU) are not eligible to participate.<sup>17</sup>

20. Inmate religious congregations may petition to hold special activities on the MSP campus. Special activities are governed by MSP Procedure 5.5.101. Exhibit B, filed herewith, is a true and correct copy of MSP Procedure 5.5.101.

21. The Native American low-side gen. pop. congregation has petitioned to hold a powwow as a special activity at MSP. I am the staff sponsor for this activity.<sup>18</sup> I anticipate that the petition will be granted, and there will be a powwow held at MSP in December of 2023. I anticipate inviting guests to the powwow.<sup>19</sup>

22. The last powwow at MSP took place in 2019. A powwow has never been a regularly occurring event at MSP.

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<sup>16</sup> Exh. A, p. 10, ¶ 2.

<sup>17</sup> See Exh. A, p. 2.

<sup>18</sup> See Exh. B, §§ III.B, C, and D.

<sup>19</sup> Exh. B, § II sets forth the meaning of the term "guest."

23. The powwow will be an out-of-cell activity; inmates housed in locked housing units (such as the SAU) will not be eligible to participate.

24. An inmate must have six months' clear conduct in order to participate in this activity.<sup>20</sup>

25. "Road man" is not a position at MSP Native American religious ceremonies. No inmates are elected to be "road man." Even if "road man" were a position at MSP Native American religious ceremonies as Whitford describes,<sup>21</sup> acting as "road man" would be an out-of-cell activity, and inmates housed in locked housing (such as the SAU) would be ineligible to participate.<sup>22</sup>

26. I am aware that Whitford has made threats to stab or otherwise assault staff members. As a staff member and supervisor of other staff members, volunteers, and guests, those threats are concerning to me.

Further affiant sayeth naught.

DATED this 27 day of July 2023.

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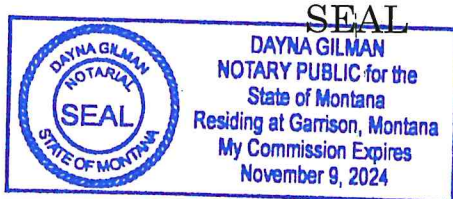
<sup>20</sup> Exh. B, § III.D.2.

<sup>21</sup> Doc. 21, p. 8, ¶ 33.

<sup>22</sup> See Exh. A, p. 2.

Terrie Stefalo  
TERRIE STEFALO

SUBSCRIBED AND SWORN before me this 27<sup>th</sup> day of July 2023.



Dayna Gilman  
Signature of Notary Public